

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

The State of Texas, *et. al.*,

Plaintiffs,

v.

Google LLC,

Defendant.

Case No. 4:20-CV-957-SDJ

Hon. Sean D. Jordan

**PLAINTIFFS' REQUEST FOR STATUS CONFERENCE
AND SETTING OF TRIAL DATE**

It has been nearly four years since a multi-state coalition initiated an extensive pre-suit investigation into Google's monopolistic and deceptive conduct in the web display advertising market.¹ On December 20, 2020, following that investigation, the State Plaintiffs initiated this case. Pursuant to this Court's initial scheduling order, the parties would be trying this case right now. *See* Dkt. 123, at p. 4 (setting June 5, 2023 trial date). Now that this matter has been returned to this Court some two years after it was transferred to the MDL, Plaintiffs respectfully submit that the first order of business is resetting this important matter for trial. State Plaintiffs respectfully request the Court convene a status conference at its earliest convenience and set an expedited trial date.

BACKGROUND

On August 10, 2021, shortly after this Court's entry of a Rule 16 scheduling order, the Judicial Panel on Multidistrict Litigation centralized this case with others in the Southern District of New York. *See* Doc. 126 in *In re: Google Digital Advertising Litig.*, MDL No. 3010 (J.P.M.L.). Congress has since emphasized the importance of antitrust actions brought by states, enacting the Venue Act into law. *See* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Div. gg, Title III, § 301, 136 Stat. 4459, 5970 (Dec. 29, 2022). As amended, Section 1407(g) now reads, "Nothing in this section shall apply to any action in which the United States or a State is a complainant arising under the antitrust laws." As such, that statute precludes state antitrust actions from being transferred to, or remaining in, consolidated proceedings in favor of the States' venue of choice. Accordingly, on June 5, 2023 the Judicial Panel on Multidistrict Litigation remanded this action "to its transferor court." *See* Dkt. 250, at p.2 in *In re: Google Digital Advertising Litig.*, MDL No. 3010 (J.P.M.L.). Ironically, that is the very date this Court initially set for trial to commence. Dkt. 123, at p. 4.

¹ The investigation began on September 9, 2019. Dkt. 108, at p. 7

In view of the proceedings and discovery already conducted under the auspices of the MDL court, State Plaintiffs believe this Court should set an expeditious trial date. Such a trial date is particularly appropriate considering that the Department of Justice and several other states mirrored the State Plaintiffs' allegations and are set to try their case against Google in March of 2024. *See U.S. v. Google*, 1:23-cv-108 (E.D. Va.)(Brinkema, J.), Dkt. 69, Dkt. 94. If Google can go to trial in March 2024 on theories and facts State Plaintiffs developed and pursued over two years before the United States first filed suit, surely it can face the original enforcement action expeditiously.

CONCLUSION

The State Plaintiffs respectfully request that the Court set a status conference and set a prompt trial date in 2024. Counsel for the States is available for an in-person conference on the afternoon of June 22, 2023, or on June 23, 2023. Counsel is also available for a telephonic call the week of June 26, 2023.

Dated: June 8, 2023

/s/ W. Mark Lanier

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CERTIFICATE OF SERVICE

I certify that on June 8, 2023, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

/s/ W. Mark Lanier
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